

Consideration of preliminary adoption of amendments to 312 IAC 8, which governs use of DNR properties, to modify or clarify standards pertaining to dedicated nature preserves and other properties managed by the division of nature preserves; Administrative Cause No. 12-001N

The Division of Nature Preserves is proposing to amend 312 IAC 8 to modify or clarify, as set forth in Exhibit “A”, standards pertaining to dedicated nature preserves and other properties managed by the Division. For dedicated nature preserves that are not owned by the State of Indiana, the fee owners’ written consent would be required before the Commission may set fees, establish entrance and exit sites, authorize hunting, or make similar conditions on usage. Clarifies that restrictions on public use of a nature preserve would apply to properties owned by the State of Indiana and managed by the Division of Nature Preserves but not yet dedicated as a nature preserve.

Exhibit “A”

TITLE 312 NATURAL RESOURCES COMMISSION

Proposed Rule
LSA Document #12-

DIGEST

Amends 312 IAC 8 that governs the use of DNR properties to address the management of nature preserves and other properties managed by the Division of Nature Preserves. For dedicated nature preserves that are not owned by the State of Indiana, requires written consent of the fee owner before the Commission may establish fees, entrance and exit sites, authorize hunting, or similar other conditions on usage. Clarifies that restrictions on public use of a nature preserve apply to properties owned by the State of Indiana and managed by the Division of Nature Preserves but not yet dedicated as a nature preserve. Makes other technical changes. Effective 30 days after filing with the Publisher.

312 IAC 8-1-3; 312 IAC 8-2-3; 312 IAC 8-2-4; 312 IAC 8-2-10

SECTION 1. 312 IAC 8-1-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-1-3 Entrance and use requirements

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

Sec. 3. (a) The commission may, in a master plan or by resolution, establish any of the following:

- (1) Fees for entrance into a DNR property or for a particular use within a DNR property.
- (2) Entrance and exit sites for a DNR property.
- (3) Conditions upon or prohibitions against particular uses within a DNR property or a portion of a DNR property.

(b) For a nature preserve dedicated under IC 14-31-1, if the fee owner is other than the State of Indiana, the department must obtain written consent from the fee owner before the commission establishes a requirement under subsection (a).

(Natural Resources Commission; 312 IAC 8-1-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 738, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA)

SECTION 2. 312 IAC 8-2-3 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-3 Firearms, hunting, and trapping

Authority: IC 14-10-2-4; IC 14-11-2-1; IC 14-22-2-6

Affected: IC 14-22-11-1; IC 35-47-2

Sec. 3. (a) A person must not possess a firearm or bow and arrows on a DNR property unless one (1) of the following conditions apply:

(1) The firearm or bow and arrows are:

(A) unloaded and uncocked; and

(B) placed in a case or locked within a vehicle.

(2) The firearm or bow and arrows are possessed at, and of a type designated for usage on:

(A) a rifle;

(B) a pistol;

(C) a shotgun; or

(D) an archery;

range.

(3) The firearm or bow and arrows are being used in the lawful pursuit of either of the following:

(A) A wild animal on a DNR property authorized for that purpose.

(B) A groundhog as authorized under a license.

(4) The person possesses a handgun on a DNR property other than a reservoir owned by the U.S. Army Corps of Engineers

or Falls of the Ohio State Park:

(A) with a valid unlimited license to carry a handgun:

(i) issued under IC 35-47-2-3; or

(ii) recognized under IC 35-47-2-21(b); or

(B) pursuant to an exemption to handgun licensure requirements as authorized under IC 35-47-2-2.

(b) Except as provided in subsection (a)(1) or (a)(4), a firearm or bow and arrows may not be possessed on DNR properties within any of the following:

(1) A nature preserve **or another property administered by the division of nature preserves** unless hunting is authorized under subsection (d).

(2) A property administered by the division of state museums and historic sites.

(3) A campground.

(4) A picnic area.

(5) A beach.

(6) A service area.

(7) A headquarters building.

(8) A hunter check station.

(9) A developed recreation site.

(c) A person must not discharge a firearm or bow and arrows on a DNR property except as follows:

(1) As authorized for a law enforcement officer.

(2) In the lawful defense of persons or property.

(3) Under a department permit that authorizes the discharge.

(4) As authorized at a shooting range.

(5) In the lawful pursuit of wild animals. The exception provided in this subdivision does not apply within two hundred (200) feet of any of the following:

(A) A campsite.

(B) A boat dock.

(C) A launching ramp.

(D) A picnic area.

(E) A bridge.

(d) A person may hunt on the following DNR properties:

(1) A state forest administered by the division of forestry, including a portion of a state forest that is a nature preserve.

(2) A reservoir property administered by the division of state parks and reservoirs.

(3) A wildlife area administered by the division of fish and wildlife, including a portion of a wildlife area that is a nature preserve.

(4) A nature preserve **or another property administered by the division of nature preserves,** ~~not otherwise approved for hunting under this subsection~~ if approved in a written authorization by

(A) the director of the division of nature preserves; **and,**

(B) **the owner of the nature preserve, if the owner is other than the State of Indiana.**

(e) A person hunting on any of the areas described in subsection (d) must do the following:

(1) Comply with all federal and state:

(A) hunting;

(B) trapping; and

(C) firearms;

laws.

(2) On a fish and wildlife area and a reservoir property, obtain a one (1) day hunting permit and record from a checking station. The person must:

(A) retain the permit and record card while in the field for the authorized date; and

(B) as directed, return them to the department.

(3) Refrain from hunting on a nature preserve if prohibited by signage posted at the site.

(f) Unless otherwise posted or designated on a property map, a person must not place a trap except as authorized by a license issued for a property by an authorized representative. This license is in addition to the licensing requirement for traps set forth in IC 14-22-11-1.

(g) A person must not run dogs, except:

(1) during the lawful pursuit of wild animals; or

(2) as authorized by a license for field trials or in a designated training area.

A property administered by the division of fish and wildlife may be designated for training purposes without requiring a field trial permit. Only dogs may be used during field trials on a DNR property, except where authorized by a license on a fish and wildlife property.

(h) A person must not leave a portable tree blind or duck blind unattended except for the period authorized by 312 IAC 9-3-2(l).

(i) The following terms apply to the use of shooting ranges:

(1) A person must not use a shooting range unless the person is:

(A) at least eighteen (18) years of age; or

(B) accompanied by a person who is at least eighteen (18) years of age.

(2) A person must:

(A) register with the department; and

(B) pay any applicable fees;

before using a shooting range.

(3) Except as otherwise provided in this subdivision, a person must shoot only at paper targets placed on target holders provided by the department. An authorized representative may approve the use of alternative targets on a supervised shooting range if the department determines a hazard to public safety would not result.

(4) A person must fire downrange and take reasonable care to assure any projectile is stopped by the range backstop.

(5) Shot not larger than size 6 must be used on a shotgun range.

(6) A person must not:

(A) discharge a firearm using automatic fire;

(B) use tracer, armor-piercing, or incendiary rounds;

(C) play on, climb on, walk on, or shoot into or from the side berms; or

(D) shoot at clay pigeons, except on a site designated for shooting clay pigeons.

Glass and other forms of breakable targets must not be used on a shooting range.

(7) A person must dispose of the targets used by the person under section 2(a) of this rule.

(8) Permission must be obtained from the department in advance for a shooting event that involves any of the following:

(A) An entry fee.

(B) Competition for any of the following:

(i) Cash.

(ii) Awards.

(iii) Trophies.

(iv) Citations.

- (v) Prizes.
- (C) The exclusive use of the range or facilities.
- (D) A portion of the event occurring between sunset and sunrise.
- (9) On a field course, signs and markers must be staked. Trees must not be marked or damaged.
- (j) A person must not take a reptile or amphibian unless the person is issued a scientific collector license under 312 IAC 9-10-6.

Exempted from this subsection are:

- (1) turtles taken under 312 IAC 9-5-2; and
- (2) frogs taken under 312 IAC 9-5-3;

from a DNR property where hunting or fishing is authorized. (*Natural Resources Commission; 312 IAC 8-2-3; filed Oct 28, 1998, 3:32 p.m.: 22 IR 739, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 553, eff Jan 1, 2000; filed Jun 17, 2002, 4:13 p.m.: 25 IR 3714; filed Sep 19, 2003, 8:14 a.m.: 27 IR 456; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; filed Sep 14, 2005, 2:45 p.m.: 29 IR 461, eff Jan 1, 2006; filed Jul 11, 2006, 9:04 a.m.: 20060802-IR-312060009FRA; filed Sep 6, 2007, 12:20 p.m.: 20071003-IR-312070023FRA; filed Mar 11, 2008, 9:34 a.m.: 20080409-IR-312070449FRA; filed Mar 12, 2010, 1:25 p.m.: 20100407-IR-312090470FRA, eff Jan 1, 2011; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA*)

SECTION 3. 312 IAC 8-2-4 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-4 Fishing

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14-22-11-1; IC 14-31-1

- Sec. 4. (a) A person must comply with all federal and state fishing laws.
- (b) Except on the waters of a reservoir property administered by the division of state parks and reservoirs, a person who is on a waterway must not:
- (1) clean or process fish; or
 - (2) possess fish that have been cleaned or processed.
- (c) A person must not fish in a nature preserve dedicated under IC 14-31-1 **or another property administered by the division of nature preserves**, except as follows:
- (1) At a site posted to authorize fishing.
 - (2) From a boat in a river, stream, or lake where access to the waterway was lawfully obtained outside the nature preserve.
 - (3) In a nature preserve that is also a fish and wildlife area.
- (*Natural Resources Commission; 312 IAC 8-2-4; filed Oct 28, 1998, 3:32 p.m.: 22 IR 740, eff Jan 1, 1999; filed Nov 5, 1999, 10:14 a.m.: 23 IR 554, eff Jan 1, 2000; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; errata filed Jun 2, 2009, 10:29 a.m.: 20090624-IR-312090386ACA; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA*)

SECTION 4. 312 IAC 8-2-10 IS AMENDED TO READ AS FOLLOWS:

312 IAC 8-2-10 Preservation of habitat and natural and cultural resources

Authority: IC 14-10-2-4; IC 14-11-2-1

Affected: IC 14

- Sec. 10. Except as authorized by a license, a person must not do any of the following within a DNR property:
- (1) Molest an animal den or bird nest.
 - (2) Collect any wild animal, except as authorized by section 3 or 4 of this rule.
 - (3) Damage or collect a plant or pick flowers. Exempted from this subdivision are the following:
 - (A) Berries.
 - (B) Fruits.
 - (C) Nuts.
 - (D) Fallen cones.
 - (E) Mushrooms.
 - (F) Leaves.
 - (G) Greens.

(4) Pick berries, fruits, nuts, fallen cones, mushrooms, leaves, or greens on a nature preserve, **or another property administered by the division of nature preserves**, unless the ~~nature preserve property~~ is located at any of the following:

- (A) State park.
- (B) Reservoir property.
- (C) Fish and wildlife area.
- (D) State forest.
- (5) Damage, interfere with, or remove:
 - (A) a work of art;
 - (B) an artifact;
 - (C) a rock or mineral;
 - (D) a shipwreck;
 - (E) an archeological site;
 - (F) a historic site;
 - (G) a building; or
 - (H) a sign.
- (6) Place or maintain a:
 - (A) structure;
 - (B) device;
 - (C) dock;
 - (D) buoy;
 - (E) ramp; or
 - (F) sign.
- (7) Use a metal detector, except on a sand, swimming beach as approved by an authorized representative.
- (8) Rock climb or rappel.
- (9) Collect firewood on a state park.
- (10) Dig or excavate any material from the ground.

(11) Regardless of whether taken lawfully, sell any material taken from a DNR property. Exempted from this subdivision are materials taken under a license issued by the department that specifically authorizes the sale of the material. (*Natural Resources Commission; 312 IAC 8-2-10; filed Oct 28, 1998, 3:32 p.m.: 22 IR 742, eff Jan 1, 1999; readopted filed Nov 17, 2004, 11:00 a.m.: 28 IR 1315; readopted filed Mar 25, 2010, 2:58 p.m.: 20100421-IR-312100037RFA*)